IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 15287 of 2007(T)

PETITIONER:

SONY ALEX, S/O.P.K.ALEXANDER,
ITTIYANPARAMBIL HOUSE, VALANJAVATTOM EAST P.O.,
THIRUVALLA, PIN-689104.

BY ADV. SRI.C.S.MANU
SRI.S.K.PREMRAJ
SRI.ANOOP JOSEPH
SRI.ANOOP.V.NAIR
SRI.ABHILASH AKBAR

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT OF KERALA,
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

2. DISTRICT MAGISTRATE,
PATHANAMTHITTA.

3. EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT, BUILDINGS DIVISION,
PATHANAMTHITTA.

4. KERALA PRADESH CONGRESS COMMITTEE (I),
INDIRA BHAVAN, TRIVANDRUM-10, REPRESENTED BY ITS
PRESIDENT.

BY GOVERNMENT PLEADER SRI.M.R.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 15287/07

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE LETTER BEARING NO.638/06 DATED 14.4.2006 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P2: TRUE COPY OF THE CIRCULAR NO.76/2000/JS 11 DATED 10-4-2004 ISSUED BY THE ELECTION COMMISSION OF INDIA.

EXT.P3: TRUE COPY OF THE PROCEEDINGS BEARING NO.E1 8119/06 DATED 13.4.2006 ISSUED BY THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE LETTER BEARING NO.638/06 DATED 5.5.06 ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT.

EXT.P5: TRUE COPY OF THE LETTER DATED 11.7.2006 ISSUED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT.

EXT.P6: TRUE COPY OF THE LETTER BEARING NO.638/06 DATED 21.7.06 ISSUED BY THE 3RD RESPONDENT TO THE 4TH RESPONDENT.

//TRUE COPY//

ANTONY DOMINIC, J.
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W.P.(C) NO. 15287 OF 2007
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Dated this the 4th day of September, 2007

J U D G M E N T

The prayer in this writ petition is to direct the respondents 1 to 3 to effect payment of the amount due to the petitioner for the civil works executed by him pursuant to Ext.P1. On account of the visit of a VVIP, by Ext.P1 order, petitioner was asked to execute certain civil works and the works were duly executed by him. In terms of Ext.P2, a Circular issued by the Election Commission of India, the expenses for construction of barricades/rostrums etc., are to be borne initially by the Government agencies on account of security considerations on behalf of the party/organisers and are to be booked as expenditure of a candidate in whose constituency the said meeting takes place. It was accordingly that by Ext.P1, the petitioner was asked by the 3rd respondent to execute the work. Having done the work,

petitioner demanded payment and by Ext.P4, the 3rd respondent required the 4th respondent to remit Rs.10,10,114 being the bill amount of the petitioner. This did not evoke any response and despite a further request by Ext.P6, payment has not been made by the 4th respondent. According to the 3rd respondent, it is the liability of the 4th respondent and the petitioner should get payment from the 4th respondent. On this basis, payment has been declined to the petitioner and the said stand is reiterated in the counter filed in this writ petition.

2. I do not see any merit in the contention raised in the counter affidavit. Ext.P2 circular issued by the Election Commission of India, itself shows that although the final expenditure is to be booked as the expenditure of the candidate in whose constituency the meeting takes place,

the expenditure on construction is to be initially borne by the Government agency on account of security considerations. It is on that basis by Ext.P1, the 3rd respondent required the petitioner to execute the work. Therefore, after making the petitioner to execute the work, there is no grace in pleading that it is the liability of the 4th respondent and the petitioner should approach the 4th respondent to get payment. I declare that respondents 1 and 3 are liable to make payment to the petitioner and there is no justification in the stand taken by them. Accordingly respondents 1 and 3 are directed to pay the amount due to the petitioner as per Ext.P4 as expeditiously as possible at any rate within a period of one month from the date of receipt of a copy of this judgment.

3. Although notice has been served on the 4th

respondent, there is no appearance. Since the liability is primarily that of the 4th respondent, it will be open to respondents 1 and 3 to take such action as is permissible for recovering, from the 4th respondent, the amount paid to the petitioner.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp